



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nanci Klein
Kerrie Romanow

SUBJECT: See Below

DATE: July 22, 2024

Approved  Date: 8/1/24

COUNCIL DISTRICT: 3

SUBJECT: Lease Agreement Between the City of San José and Habitat for Humanity Silicon Valley for Its Continued Use of City-Owned Property Located at 1608 Las Plumas Avenue as a Restore Resale Outlet

RECOMMENDATION

Adopt a resolution authorizing the City Manager or her designee to negotiate and execute a retroactive lease agreement and all documents necessary to effectuate the lease, between the City of San José, a municipal corporation of the State of California, as Landlord, and Habitat for Humanity Silicon Valley, a California nonprofit corporation, as Tenant, for its continued use of approximately 14,606 square feet of space at the City-owned property located at 1608 Las Plumas Avenue for an initial term of three years commencing July 1, 2024, and expiring June 30, 2027, at a rental rate of \$124,443.12 for the first year, \$128,176.44 for the second year, and \$132,021.72 for the third year, totaling \$384,641.28 for the initial term, with three mutual options to extend for an additional three years each at a rental rate that shall be determined and agreed upon by both parties.

SUMMARY AND OUTCOME

Approval of this recommendation will allow Habitat for Humanity Silicon Valley, a California nonprofit corporation (Habitat), to continue operating its Habitat ReStore resale outlet located in a 14,606 square foot portion of the San José Environmental Innovation Center at 1608 Las Plumas Avenue in San José (Premises). The Habitat ReStore sells quality used and surplus building materials to the public at a fraction of market prices. This agreement will generate \$384,641.28 in lease revenue over the initial three-year term. The three three-year option periods may be mutually exercised by City and Habitat staff at a rate to be mutually agreed upon by the City and Habitat.

BACKGROUND

City staff first approached Habitat to explore opportunities to open a ReStore facility at the Environmental Innovation Center in early 2007. In the City's 2008 Zero Waste Strategic Plan, staff identified local construction and demolition reuse opportunities as an important resource for contractors and residents.

The City and Habitat executed a lease for the Premises to operate the ReStore on July 1, 2011. The lease had a seven-year term, with a five-year option to extend. On August 29, 2013, City and Habitat executed a first amendment to the lease agreement extending the site delivery date to January 1, 2014, and the initial term's termination date to June 30, 2019. A second amendment was executed on May 28, 2014, extending the site delivery date to May 1, 2014, with a five-year option to extend. Habitat exercised its option to extend the lease, which has expired as of June 30, 2024. Habitat is currently occupying the space on a month-to-month holdover basis.

Habitat and the City wish to enter into a new lease so that Habitat can continue operating its retail store, selling quality new and nearly new construction materials donated by home improvement/building supply businesses and home building firms.

The store benefits Habitat by providing a source of funding to support its charitable endeavors, and it benefits the general public by selling low-cost building materials. In the last year, it served 17,860 customers, including 1,955 Habitat donors. The store also benefits the environment by diverting building materials away from landfills. In the most recent year of operation, the store diverted 2,046 tons of waste from landfills.

ANALYSIS

The negotiated terms of the lease arrangement between the City and Habitat are as follows:

- Property Address:** 1608 Las Plumas Avenue San José, CA 95133.
- Landlord:** City of San José, a municipal corporation of the State of California.
- Tenant:** Habitat for Humanity Silicon Valley, a California nonprofit corporation.
- Rentable Area of Premises:** Approximately 14,606 square feet.

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Use of Premises: Operation of a retail store selling quality new and nearly new construction materials to the general public at a fraction of normal prices with the inventory donated by home improvement/building supply businesses and home building firms.

Commencement Date: July 1, 2024.

Expiration Date: June 30, 2027.

Options to Extend: Three mutual options to extend for an additional three years for each. Rent for the options terms shall be determined and mutually agreed upon by both parties prior to extension.

Utilities: Tenant shall be responsible for paying its own garbage service in addition to the garbage service provided by Landlord and any possessory interest tax levied by the County of Santa Clara. Landlord shall pay all utilities that have a common account including gas, electricity, water, and sewer services.

Initial Term Rent Schedule (7/1/2024 – 6/30/2027)				
Month		\$/SF/Month	Monthly Rent	Annual Rent
1-12	7/1/2024 – 6/30/2025	\$0.71	\$10,370.26	\$124,443.12
13-24	7/1/2025 – 6/30/2026	\$0.73	\$10,681.37	\$128,176.44
25-36	7/1/2026 – 6/30/2027	\$0.75	\$11,001.81	\$132,021.72
	7/1/2024 – 6/30/2027	Average - \$0.73	Average - \$10,684.48	Total - \$384,641.28

The lease will retroactively commence on July 1, 2024 and expire on June 30, 2027. The projected lease revenue to the City is approximately \$384,641.28 for the initial three-year term. All other terms of the original lease shall remain unchanged.

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Climate Smart San José Analysis

The retail store operated by Habitat supports the goals of Climate Smart San José by creating jobs within San José and diverting waste from landfills. The ReStore retail operation is dependent on receiving donated used and new construction materials that would otherwise be destined for disposal at a landfill. By making this service available to the local community at a reduced cost, the City can decrease waste and encourage more efficient and green home building in San José. Habitat utilizes a small number of paid staff to run its operation who also provide training to residents and volunteers on how to construct and rebuild in cost-effective green ways.

EVALUATION AND FOLLOW-UP

While Habitat is currently occupying the Premises on a valid month to month “holdover” basis, the lease authorized by this memorandum will be retroactively effective to July 1, 2024. Thereafter, the City will monitor lease compliance through the term of the lease. Staff will return to City Council for approval of any option terms.

COST SUMMARY/IMPLICATIONS

The projected lease revenue to the City is approximately \$384,641.28 for the initial three-year term. The lease revenue will accrue to the Integrated Waste Management Fund (Fund 423).

COORDINATION

This memorandum has been coordinated with the City Attorney’s Office, the City Manager’s Budget Office, the Planning, Building, and Code Enforcement Department, and the Public Works Department.

PUBLIC OUTREACH

This memorandum will be posted on the City’s Council Agenda website for the August 13, 2024 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

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CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. The proposed action is not a project pursuant to California Environmental Quality Act Guidelines Section 15378 because the existing space will be leased for the same use with no potential for either a direct or a reasonably foreseeable indirect physical change in the environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

NANCI KLEIN

Director of Economic Development and
Cultural Affairs

/s/

KERRIE ROMANOW

Director, Environmental Services

For questions, please contact Kevin Ice, Assistant to the City Manager, Senior Manager, Real Estate Services, at kevin.ice@sanjoseca.gov.